

STATE OF INDIANA        )  
                                  ) ss:  
COUNTY OF MARION     )

IN THE MARION CIRCUIT COURT  
  
CAUSE NO. 49C01-0105-MI-001111

SALLY B. McCARTY, as the Insurance     )  
Commissioner of the Department of     )  
Insurance of the State of Indiana,     )  
  )  
                                  Petitioner,     )  
  )  
                                  v.             )  
  )  
MAXICARE INDIANA, INC.,             )  
  )  
                                  Respondent     )

**FILED**  
MAY 22 2001  
*Josh M. Taylor*  
CLERK OF THE  
MARION CIRCUIT COURT

**ORDER FOR**  
**INJUNCTIVE AND OTHER RELIEF**

On the 16th day of May, 2001, Indiana Insurance Commissioner Sally B. McCarty, as the Rehabilitator of Maxicare Indiana, Inc. (“Maxicare”), filed a Verified Petition For Injunctive and Other Relief in the above captioned matter (“Petition”). Having considered the Petition, other filing and Orders in this proceeding and being duly advised, the Court finds that the Petition should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that:

(A) Participating providers of Maxicare, or anyone acting on their behalf, art enjoined from seeking payment from or commencing legal action against subscribers or enrollees of Maxicare, as to sums owed by Maxicare;

(B) For a period of ninety (90) days from the date of this Order, non-participating providers of Maxicare, or anyone acting on their behalf, are enjoined from seeking payment from or commencing legal action against subscribers or enrollees of Maxicare, as to sums owed by Maxicare;

(C) All claims, actions and other proceeding against Maxicare or the Rehabilitator are to be heard exclusively in this Court, consistent with Ind. Code 27-9 and procedures to be hereafter adopted by this Court;

(D) The kinds of actions or proceedings described in paragraphs 11, 12, 13, 14 and 15 of the Petition, if commenced in a court, arbitration or tribunal other than this Court, would constitute an interference with the proceeding in this Court and, therefore, an injunction should be entered to prevent the commencement, prosecution or further prosecution or the taking of any and all such actions or proceedings;

(E) Except for proceedings brought in this Court, consistent with Ind. Code 27-9 and procedures established by this Court, Maxicare's providers, enrollees, subscribers, employer groups, policyholders, insureds, creditors, shareholders, agents, brokers, reinsurers, ceding companies, reinsurance treaty holders, affiliates and all other persons are hereby enjoined from:

(1) the commencement, prosecution or further prosecution of any suit, action, arbitration or other proceeding against or involving Maxicare or the Rehabilitator in the nature of a class action under Rule 23 of the Federal Rules of Civil Procedure, or any comparable state or federal procedure or equitable law, rule or doctrine;

(2) the commencement, prosecution or further prosecution of any suit, action, arbitration or other proceeding, on behalf of, in the name of, or against or involving Maxicare or the Rehabilitator in the nature of a derivative action under Rule 23.1 of the Federal Rules of Civil Procedure, or any comparable state or federal procedure or equitable law, rule or doctrine;

(3) the commencement, prosecution or further prosecution of any suit, action, arbitration or other proceeding against or involving Maxicare or the Rehabilitator

by way of original claim, third party claim, joinder or otherwise which seeks any one or more of the following kinds of relief against Maxicare or the Rehabilitator, whether solely or in the alternative and whether joint, several, or joint and several with respect to one or more other defendants:

- (i) money damages;
  - (ii) punitive damages;
  - (iii) appointment of a receiver, trustee, referee, master or other similar court officer;
  - (iv) mandatory or prohibitive injunction or restraining order;
  - (v) specific performance;
  - (vi) imposition of a constructive trust or equitable lien;
  - (vii) specific performance, rescission or similar relief arising from the entering into of any contract by or with Maxicare; or
  - (viii) declaratory relief as to liability in the nature of any of the foregoing;
- (4) the obtaining of a preference, Judgment, attachment, garnishment or lien against Maxicare or its property or assets, or any part thereof, wherever located, or the levying of execution against Maxicare or its property or assets, or any part thereof, wherever located, or the repossession of the property or assets of Maxicare, or any part thereof, wherever located, or the commencement, prosecution or further prosecution of any suit, action, arbitration or other proceeding having any such purpose or effect
- (5) the transfer, waste or dissipation of the bank accounts or any of the property or assets of Maxicare, the transaction of any business of Maxicare without the approval of the Rehabilitator or this Court, or the withholding from the Rehabilitator of

the books, accounts, documents, data processing and computer information, or other records relating to the business of Maxicare;

(6) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of Maxicare; and

(7) any other threatened or contemplated action that might lessen the value of Maxicare's assets or prejudice the rights of providers, enrollees, subscribers, employer groups, creditors, shareholders, agents, brokers, reinsurers, ceding companies or reinsurance treaty holders or the administration of this proceeding under Ind. Code 27-9;

(F) All persons desirous of commencing, prosecuting or further prosecuting any suit, action or proceeding described in paragraph (E) above, are ordered to do so in this Court as part of this Receivership proceeding or, in the alternative, to seek the leave of this Court, with prior notice to the Rehabilitator and her counsel, to institute or prosecute such actions or proceedings elsewhere;


(G) All secured parties, pledgees, lien holders, collateral holders or other persons claiming a secured, priority or preferred interest in any property or assets of Maxicare, are hereby enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or against any property or assets of Maxicare, without the prior written approval of the Rehabilitator or this Court;

(H) This Order is subject to Ind. Code 27-9, et seq., and is without prejudice to the rights of any person: (a) to request that a suit, action or proceeding described in paragraph (E) above be dismissed with or without prejudice or stayed; (b) to take any action directed toward such a dismissal or stay; or (c) to assert any claim against Maxicare or the Rehabilitator in this action; and

(I) The Rehabilitator is hereby authorized to employ, or continue the employment of, appropriate special or local legal counsel to represent the interests of Maxicare and/or the Rehabilitator, all upon such terms and conditions as the Rehabilitator considers necessary, and to pay for such counsel out of the funds or assets of Maxicare.

DATED: \_\_\_\_\_

MAY 22 2009



\_\_\_\_\_  
JUDGE, Marion Circuit Court

COPIES TO:

Donald J. Graham, Esq.  
BINGHAM SUMMERS WELSH & SPILMAN, LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, IN 46204-4900

Mary Beth Claus, Esq.  
BAKER & DANIELS  
Suite 2700  
300 North Meridian Street  
Indianapolis, IN 46204